

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel in Illinois. See 86 Ill. Adm. Code 480.101. (This is a GIL).

August 6, 2002

Dear Xxxxx:

This letter is in response to your letter dated June 13, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

AAA is sending this inquiry on behalf of our client in regards to the local tax deduction allowed by the Illinois Department of Revenue on the Illinois Hotel Operators Tax Return. Our clients business operations and our interpretation of the deduction are discussed below.

Our client, XYZ Company ('XYZ') operates a hotel located in CITY. XYZ is responsible for the Illinois Hotel Operators Tax and the CITY Rooms Tax. XYZ collects the CITY Rooms tax on receipts from lodging, meeting rooms, and permanent housing. XYZ takes a deduction on their Illinois Hotel Operators Tax Return for the local tax collected on lodging, but not for the local tax collected on meeting rooms and permanent housing.

AAA believes that XYZ is entitled to a full deduction for all hotel tax collected on behalf of a local jurisdiction. Is XYZ's current method of taking a deduction for the CITY Room Tax associated only with lodging correct? Is XYZ allowed to take a deduction for the total amount of the CITY Room Tax collected, including meeting rooms and permanent housing?

Based upon the facts presented, we respectfully requested that your office issue a letter opinion providing clarification on the local tax deduction allowed by the Illinois Department of Revenue on the Illinois Hotel Operators Tax Return. If you have any questions or need additional information, please call me.

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel in Illinois. See 86 Ill. Adm. Code 480.101. The legal incidence of the Hotel Operators' Occupation Tax is on the hotel operator, not the renter of the room. However, the hotel operator is authorized to collect a "reimbursement" from the person renting the room. Although the Hotel Operators' Occupation Tax Act authorizes hotel operators to charge this reimbursement, it does not require them to do so.

The instructions for the line of the form that you are questioning state as follows:

“Write the total of local hotel taxes paid directly to a local jurisdiction. This figure should not include the following local hotel taxes: CITY Municipal Tax, Illinois Sports Facilities Tax (ISFT), and Metropolitan Pier and Exposition Authority (MPEA) Hotel Tax.”

Only taxes collected that relate to the base of the Hotel Operators' Occupation Tax should be deducted on the tax return. Therefore, tax collected for meeting rooms and permanent housing should not be deducted.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.